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Attorneys for Defendant April Alcorn

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**DECLARATION OF NATHAN W.
HICKS**

[FRCP 55(c)]

Date: May 12, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

WICKS\SWDMS\8693302

USDC-SOUTHERN DISTRICT CALIFORNIA
CASE NO. 07-CV-2373 WQH CAB

DECL. OF N. HICKS

1 I, Nathan W. Hicks, declare and state as follows:

2
3 1. I am an attorney licensed to practice law before all courts of the State
4 of California and I am a member of the law firm of Snell & Wilmer, attorneys of
5 record for defendant April Alcorn ("Alcorn") in this matter. I have personal
6 knowledge of the matters set forth in this declaration, and if called upon as a
7 witness, I could competently testify to them.

8
9 2. Plaintiff, Chad McKinney ("McKinney"), filed the complaint in the
10 above-captioned matter on December 19, 2007. McKinney, however, did not
11 obtain a summons issued by the Court until approximately one month later on
12 January 15, 2008. A true and correct copy of the summons issued by the Court as
13 reflected in the Court's website at [https://ecf.casd.uscourts.gov/cgi-](https://ecf.casd.uscourts.gov/cgi-bin/DktRpt.pl?117733301982358-L_353_0-1)
14 [bin/DktRpt.pl?117733301982358-L_353_0-1](https://ecf.casd.uscourts.gov/cgi-bin/DktRpt.pl?117733301982358-L_353_0-1) is attached as Ex. A. According to
15 McKinney's Return of Service filed with the Court on March 20, 2008, a process
16 server attempted to serve Alcorn by leaving copies of the summons, Complaint and
17 cover sheet with "Rebecca Springfield, Security, Authorized" on February 26,
18 2008. A true and correct copy of McKinney's Affidavit of Service as reflected in
19 the Court's website at [https://ecf.casd.uscourts.gov/cgi-](https://ecf.casd.uscourts.gov/cgi-bin/DktRpt.pl?117733301982358-L_353_0-1)
20 [bin/DktRpt.pl?117733301982358-L_353_0-1](https://ecf.casd.uscourts.gov/cgi-bin/DktRpt.pl?117733301982358-L_353_0-1) is attached as Ex. B. McKinney filed
21 a Motion for Clerk's Entry of Default on March 20, 2008. [Plaintiff's Motion for
22 Clerk's Entry of Default and Supporting Memorandum of Points and Authorities
23 ("Motion for Entry of Default").] Based on McKinney's assertions that UOP was
24 given sufficient service of process on February 26, 2008, the Court Clerk made an
25 entry of default on March 20, 2008. A true and correct copy of the Court Clerk's
26 entry of default against Alcorn as reflected in the Court's website at
27 https://ecf.casd.uscourts.gov/cgi-bin/DktRpt.pl?117733301982358-L_353_0-1 is
28 attached as Ex. C.

1 3. On February 29, 2008, I contacted McKinney by telephone and
2 explained that he had not given sufficient service of process, and that the parties
3 should stipulate to setting aside the entry of default. Afterwards, McKinney could
4 then attempt to properly re-serve his summons and complaint. Nevertheless,
5 McKinney still refused to stipulate to setting aside the entry of default.

6
7 I declare under penalty of perjury under the laws of the State of California
8 that the foregoing is true and correct.

9
10 Dated: March 31, 2008

s/Nathan Hicks

Nathan W. Hicks

Snell & Wilmer

LLP
LAW OFFICES
600 Anton Boulevard, Suite 1400
Costa Mesa, California 92626-7689
(714) 427-7000

EXHIBIT A

SAO 440 (Rev. 10/93) Summons in a Civil Action

UNITED STATES DISTRICT COURT

THE UNITED STATES DISTRICT COURT SOUTHERN

District of California

Chad McKinney, Pro Se

SUMMONS IN A CIVIL CASE

V.

APOLLO GROUP INC., UNIVERSITY OF PHOENIX, a Corporation, MECHELLE BONILLA, an
Enrollment Manager at UNIVERSITY OF PHOENIX, KYAN FLYNN, Director of Enrollment at
UNIVERSITY OF PHOENIX, APRIL ALCORN, an Employee Relations Consultant at UNIVERSITY OF
PHOENIX, CARLYN LINDSTEN, Associate Director of Enrollment at UNIVERSITY OF PHOENIX

CASE NUMBER:

07 CV 2373 WQH CAB

TO: (Name and address of Defendant)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Chad McKinney, Pro Se
6266 Madeline Street Apt. No. 61
San Diego, Ca 92115-5630

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

W. SAMUEL HAMRICK, JR.

JAN 15 2008

CLERK

DATE

(By) DEPUTY CLERK

EXHIBIT B

CHAD MCKINNEY
6266 MADELINE STREET #61
SAN DIEGO CA 92115-5630
(619) 634-3566
Bar# 0

IN THE UNITED STATES DISTRICT COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

CHAD MCKINNEY	Plaintiff	NO. 07CV2373WQHCB
VS.		AFFIDAVIT OF SERVICE
APOLLO GROUP INC., ET AL	Defendant	

STEVE INEICH, A.C.P.S., being duly sworn, states: that he/she is duly qualified to serve process in this cause, having been so appointed by the court, that he/she received the following document(s) in this action:

SUMMONS, COMPLAINT & COVER SHEET

from CHAD MCKINNEY on 02/13/08, attorney(s) for the PLAINTIFF;
that he/she personally served the same upon the party/parties in the manner named below:

NAME: APRIL ALCORN

DATE & TIME: 02/26/08 1:33 PM

PLACE : 4615 EAST ELWOOD STREET PHOENIX, AZ 85040

MANNER: By leaving ONE true copy(ies) of the above documents with REBECCA SPRINGFIELD,
SECURITY, AUTHORIZED.
WORK: UNIVERSITY OF PHOENIX

Described as female, age 50, CAUC, 5ft. 7in. tall, 150lbs. BROWN eyes, BLACK hair.

Statement of Costs

Service	\$ 16.00
Mileage	\$ 25.00
Document Prep	\$ 11.00
	\$.00
	\$.00
	\$.00
	\$.00
	\$.00
Total	\$ 52.00

STEVE INEICH, A.C.P.S. Process Server registered in MARICOPA County

Subscribed and sworn to before me on

02/27/08



OFFICIAL SEAL
PATRICIA PENROD
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 14, 2009

Patricia Chlebana
Notary Public

Frontier Private Process Service 1145 West McDowell Road Phoenix, AZ 85007 (602) 258-0022
10802285-01 4783 10102

EXHIBIT C

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

Chad McKinney

Plaintiff,

vs

Apollo Group Inc.; Mechelle Bonilla; Kyan Flynn;
April Alcorn; Carlyn Lindsten; University of
Phoenix

Defendants,

Civil No. 07cv2373-WQH-CAB
DEFAULT

It appears from the records in the above-entitled action that Summons issued on the Original Complaint filed on 12/19/07 has been regularly served upon each of the Defendants hereinafter named; and it appears from the records herein that each of the Defendants has failed to plead or otherwise defend in said action as required by said Summons and provided by the Federal Rules of Civil Procedure. Now, therefore, the DEFAULT of each of the following Defendants is hereby entered.

April Alcorn

Entered On:
3/20/08

W. SAMUEL HAMRICK, JR., CLERK

By: s/M. Cruz

M. Cruz, Deputy

PROOF OF SERVICE

**McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-7689.

On April 1, 2008, I served, in the manner indicated below, the foregoing document described as

DECLARATION OF NATHAN HICKS

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

I am employed in the office of a member of the bar of this court at whose direction the service was made.

Please See Attached Service List

- ☐ BY REGULAR MAIL: I caused such envelopes to be deposited in the United States mail at Costa Mesa, California, with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service each day and that practice was followed in the ordinary course of business for the service herein attested to (C.C.P. § 1013(a)).
- ☐ BY FACSIMILE: (C.C.P. § 1013(e)(f)) and by e-mail
- ☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).
- ☐ BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to the offices of the addressees. (C.C.P. § 1011(a)(b)).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 1, 2008, at Costa Mesa, California.


Anh Dufour

SERVICE LIST**McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373**

Chad McKinney Pro Se 6266 Madeline Street, Apt. #61 San Diego, CA 92115 (619) 634-3566	Plaintiff, Pro Se
United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 940 Front Street, Room 4290 San Diego, CA 92101-8900 (619) 557-5600	Courtesy Copy